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. 8	BEFORE THE						
. 9	BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS						
10	STATE OF CALIFORNIA						
11							
12	In the Matter of the Accusation Against: Case No. 2012 - GS						
13	PATRICIA KAY MATHER 1961 Main Street # 318						
14	Watsonville, CA 95076 Registered Nurse License No. 385777  ACCUSATION						
15	Respondent.						
16	Cosponacii.						
17	Complainant alleges:						
18	PARTIES						
19	·						
20	y, and the control of						
21	official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs.						
22							
23	, , , and a sum of a						
24	License Number 385777 to Patricia Kay Mather ("Respondent"). The Registered Nurse License						
ì	was in full force and effect at all times relevant to the charges brought herein and will expire on						
25	August 31, 2012, unless renewed.						
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#### JURISDICTION

- 3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.
- 4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

### STATUTORY AND REGULATORY PROVISIONS

6. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- "(a) Unprofessional conduct, which includes, but is not limited to, the following:
- "(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.
  - 7. California Code of Regulations, title 16, section 1442, states:

"As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life."

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8. California Code of Regulations, title 16, section 1443, states:

"As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as described in Section 1443.5."

9. California Code of Regulations, title 16, section 1443.5 states:

"A registered nurse shall be considered to be competent when he/she consistently demonstrates the ability to transfer scientific knowledge from social, biological and physical sciences in applying the nursing process, as follows:

- "(1) Formulates a nursing diagnosis through observation of the client's physical condition and behavior, and through interpretation of information obtained from the client and others, including the health team.
- "(2) Formulates a care plan, in collaboration with the client, which ensures that direct and indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and for disease prevention and restorative measures.
- "(3) Performs skills essential to the kind of nursing action to be taken, explains the health treatment to the client and family and teaches the client and family how to care for the client's health needs.
- "(4) Delegates tasks to subordinates based on the legal scopes of practice of the subordinates and on the preparation and capability needed in the tasks to be delegated, and effectively supervises nursing care being given by subordinates.
- "(5) Evaluates the effectiveness of the care plan through observation of the client's physical condition and behavior, signs and symptoms of illness, and reactions to treatment and through communication with the client and health team members, and modifies the plan as needed.
- "(6) Acts as the client's advocate, as circumstances require, by initiating action to improve health care or to change decisions or activities which are against the interests or wishes of the client, and by giving the client the opportunity to make informed decisions about health care before it is provided."

#### COST RECOVERY

10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

# STATEMENT OF FACTS

- 11. Respondent at all relevant times was a registered nurse at Watsonville Community Hospital ("WCH") in Watsonville, California. During this time she was employed as the Nursing Supervisor for WCH with duties that included overseeing hospital operations to ensure safe patient care and management of crises with effective judgment and decisionmaking.
- 12. On January 30, 2006, S.E., a 60 year-old female, underwent surgery at WCH for repair of a hernia.
- 13. On February 2, 2006, S.E. developed respiratory problems. She was diagnosed with congestive heart failure ("CHF") secondary to fluid overload. At approximately 10:45 p.m., or shortly thereafter, on February 2, 2006, Respondent assisted in transferring S.E. to the Telemetry Unit for closer observation. Prior to the transfer, blood work was drawn for B-type Natriuretic peptide ("BNP"), a specific test to confirm the diagnosis of CHF.
- 14. At approximately 11:30 p.m., on February 2, 2006, S.E. was assigned to Nurse A. During the early morning hours on February 3, 2006, S.E.'s respiratory status did not improve. Her respiratory rate was elevated, she was restless, sweating and had difficulty breathing. Even while receiving 100 % oxygen on a non-rebreather mask, S.E.'s oxygen saturation levels were decreased. Nurse A. did not check for the BNP lab results during her care of S.E.
- 15. At approximately 4:00 a.m., on February 3, 2006, Nurse A. consulted with Respondent regarding S.E. Together they decided to get an earlier than ordered chest x-ray versus calling then contacting the on-call physician regarding S.E.'s condition.
- 16. At approximately 5:15 a.m., on February 3, 2006, Respondent had S.E.'s chest x-ray reviewed by an emergency room physician at WCH, who opined that it was consistent with CHF.

- 17. At approximately 5:25 a.m., Respondent contacted the on-call physician for S.E. The on-call physician was given an incomplete report on S.E.'s status since being moved to the Telemetry unit and was not informed of BNP test results. Respondent did not document in S.E.'s chart her conversation with the on-call physician. Furthermore, Respondent did not at any time request that S.E. be transferred to a unit with a higher level of care given her condition.
- 18. At approximately 6:32 a.m., on February 3, 2006, S.E. went into respiratory arrest. She was resuscitated, but sustained brain damage which resulted in her being in a persistent vegetative state.

### FIRST CAUSE FOR DISCIPLINE

(Gross Negligence -- Failure to Timely Notify Physician)

19. Respondent is subject to discipline for gross negligence pursuant to Code section 2761(a)(1), in that she failed to timely notify the on-call physician of S.E.'s deteriorating condition as set forth above in paragraphs 11 through 17.

## SECOND CAUSE FOR DISCIPLINE

(Gross Negligence – Failure to Communicate Complete Information to Physician)

20. Respondent is subject to discipline for gross negligence pursuant to Code section 2761(a)(1), in that she failed to give the on-call physician a complete report on S.E., including the results of the BNP test, as set forth above in paragraph 17.

# THIRD CAUSE FOR DISICPLINE

(Gross Negligence –Failure to Request Transfer)

21. Respondent is subject to discipline for gross negligence pursuant to Code section 2761(a)(1), in that she failed to intervene and request an order for the transfer of S.E. to a unit with a higher level of care, as set forth above in paragraphs 11 through 17.

# FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct- Failure to Document)

22. Respondent is subject to discipline for unprofessional conduct pursuant to Code section 2761(a), in that she failed to document her conversation with the on-call physician as set forth above in paragraph 17.

and that following the hearing, the Board of Registered Nursing issue a decision: Revoking or suspending Registered Nurse License Number 385777, issued to Patricia

- Ordering Patricia Kay Mather to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions
  - Taking such other and further action as deemed necessary and proper.

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Executive Officer

Board of Registered Nursing Department of Consumer Affairs

State of California Complainant